

REMARKS

Upon entry of the instant amendment, claims 1, 3, 21-27, 31, 42, 44-48 and 52-55 are pending in the above-identified application. Claims 1, 27, 42, 44, and 46 are currently amended. Claim 55 is new.

Claims 1, 3, 21-27, and 52-54 are rejected under 35 USC § 103(a) as being unpatentable over U.S. Pub. No. 2004/0030391 to Ferree ("‘391 Ferree") in further view of U.S. Pub. No. 2003/0204260 to Ferree ("‘260 Ferree"). Claims 31, 42, 44, and 48 are rejected under 35 USC § 103(a) as being unpatentable over ‘391 Ferree and alternatively ‘391 Ferree in further view of U.S. Pub. No. 2003/0045939 to Casutt. Claims 45-47 are rejected under 35 USC § 103(a) as being unpatentable over ‘391 Ferree in further view of ‘260 Ferree and alternatively ‘391 Ferree in further view of ‘260 Ferree in further view of Casutt.

Initially, Applicants and their attorney would like to thank the examiner for indicating in a telephone interview on June 25, 2012 that claim 42 substantially as amended herein would overcome the rejection of record.

Claim 1 has been amended to specify that the inner, arcuate bearing surfaces include a dome-shaped inner bearing surface of one of the shell bodies having truncated, diametrically opposite edge portions that extend along the opposite elongate sides of the one shell body such that a diameter of the dome-shaped inner bearing surface is longer than the width of the one shell body and the dome-shaped inner bearing surface extends substantially across the entire width of the one shell body between the opposite edge portions. The cited art does not disclose or suggest a two-part spinal nucleus device as claimed in claim 1, including at least a dome-shaped inner bearing surface having truncated, diametrically opposite edge portions according to claim 1. Accordingly, claim 1 is also allowable over the cited art.

As independent claims 1 and 42 are believed to be allowable, claims 3, 21-27, 31, 44-48, and 52-55, which depend cognately therefrom, are also allowable. Accordingly, Applicants believe the application is now in condition for allowance, and respectfully request reconsideration and allowance of the claims.

Application No.: 10/692,468
AMENDMENT dated June 29, 2012
Final Office Action mailed February 1, 2012

Applicants submit this amendment and response without filing an RCE and associated fees per the Examiner's assurance that Applicants' amendment and response would be considered pursuant to the USPTO after-final consideration pilot program.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,
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